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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/460,361	12/13/1999	AKIRA UTSUMI		2392

7590
07/17/2002
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Darby & Darby, P.C.
805 Third Avenue
New York, NY 10022

EXAMINER

PRATT, CHRISTOPHER C

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 07/17/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

AS-6

Office Action Summary

Applicati n N .

09/460,361

Applicant(s)

AKIRA UTSUMI

Examiner

Christopher C. Pratt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2002 .
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____ .

DETAILED ACTION

Response to Amendment

1. Applicant's amendments and accompanying remarks filed 6/3/02 have been entered and carefully considered. Applicant's amendment is found to overcome the 112 indefinite rejections set forth in the previous action. Despite this advance, the amendments are not found to patently distinguish the claims over the prior art and Applicant's arguments are not found persuasive of patentability for reasons set forth herein below.

Claim Rejections - 35 USC § 112

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite because of the phrase "wherein the entanglement-based non-woven fabric is derived from merely-entangled nonwoven fabric." How is the fabric "derived" from the entanglement-based layer, i.e. what processes are used to modify the entanglement-based layer? How does the "entanglement-based" fabric differ from the "merely-entangled" nonwoven fabric?

Claim Rejections - 35 USC § 103

4. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nemoto et al (6102465) in view of Nagata et al (6312542), as set forth in the previous action.

Applicant has not amended the claims in an attempt to overcome the prior art. Applicant argues that the combination does not teach applicant's claimed tensile strength. Applicant's arguments are not commensurate in scope with the claims because the tensile strength of the positively claimed nonwoven layers is not recited. Independent claim 1 recites the tensile strength of a "merely-entangled" layer. However, the claim only requires a rigid entanglement based layer and bulky layer. Therefore, the claimed tensile strength is for an intermediate product and no properties are claimed for the final product so the limitation is not given patentable weight at this time.

Even though the tensile strength of applicant's layers is not positively claimed, it is the examiner's position that the web created by the combination of Nemoto and Nagata inherently has the same tensile strength as applicant's claimed laminate. This conclusion is based on the fact that the fabric created by said combination is composed of the same materials as applicant's claimed fabric, is formed by the same process, and used for the same purpose.

In the alternative it would have been obvious to a person having ordinary skill in the art to increase the tensile strength of the fabric created by said combination. Tensile strength is easily increased by increasing the amount of bonding in the web.

The skilled artisan would have been motivated to increase tensile strength in order to create a web capable of withstanding increased stress, which would also be more durable.

Applicant argues that it would not be obvious to increase tensile strength because increased tensile strength would result in poor sound absorption properties. However, applicant has not submitted any evidence showing that a tensile strength of at least 150 N/50mm would result in poor sound absorption.

Applicant argues that said combination does not teach the rigidity of the instant invention. This argument is not persuasive because the degree of rigidity is not claimed.

With respect claim 18, it would have been obvious to the skilled artisan to shape the fabric laminate created by said combination in order to fit said laminate in different places inside a vehicle (col. 2, lines 10-14).

Conclusion

5. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Pratt whose telephone number is 703-305-6559. The examiner can normally be reached on Monday - Friday from 7 am to 4 pm.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Christopher C. Pratt
July 14, 2002



CHERYL A. JUSKA
PRIMARY EXAMINER